

## **PARAMEDIC DISCIPLINARY PROCESS**

The EMS Authority may deny, revoke, suspend, or place on probation a paramedic's license pursuant to California Health & Safety Code Section 1798.200. The EMS Authority does not have statutory authority to impose fines for violations of Section 1798.200.

Proceedings against a paramedic's license shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part I of Division 3 of Title 2 of the Government Code (Administrative Procedure Act). The California Attorney General's Office is the EMS Authority's legal counsel responsible for disciplinary actions under Section 1798.200.

### **Accusation**

If, at the completion of an investigation, the Enforcement Unit determines that a violation of Section 1798.200 occurred and that administrative enforcement is warranted, the Enforcement Unit makes its recommendation to the deputy director of the EMS Authority. If the deputy director decides that disciplinary action should commence against a respondent, the deputy director requests that an Accusation be prepared pursuant to Government Code Section 11503, which is served upon the respondent. The Accusation is prepared by the EMS Authority's legal counsel, the California Attorney General's Office, and is a public document.

In order to receive a hearing on the merits, the respondent must file a notice of defense within 15 days of being served with the Accusation.

### **Stipulation**

When appropriate, the deputy attorney general assigned to the case may begin settlement negotiations concurrent with the service of the accusation. This is done in order to avoid a protracted administrative hearing with an uncertain outcome. The settlement document is called a "Settlement Agreement", but is commonly referred to as the "Settlement".

The settlement contains an agreed upon statement of facts and law, and provides specific disciplinary terms and conditions. In signing the settlement, the respondent is admitting that the violations occurred as stated in the Accusation, and is agreeing to all the terms and conditions of the settlement. When the signed settlement is received from the respondent, the settlement is presented to the director for approval and signature.

### **Administrative Hearing Process**

If a case does not settle and the respondent has filed a notice of defense, an administrative hearing is conducted pursuant to the Administrative Procedure Act (Government Code Sections 11500 et seq.). The director has the option of participating

in a hearing on the merits, or of delegating the responsibility to an administrative law judge. The standard of proof in an administrative hearing to revoke, suspend, or place a license on probation is “clear and convincing proof to a reasonable certainty.” (Ettinger v. Board Of Medical Quality Assurance (1982) 135 Cal.App.3d 853, 185 Cal.Rptr. 601)

If the director delegates the hearing to an administrative law judge, then the administrative law judge issues a proposed decision within 30 days which is provided to the EMS Authority. Thirty days after the receipt by the EMS Authority of the proposed decision, a copy of the proposed decision shall be filed with the EMS Authority as a public record and a copy shall be served by the EMS Authority on each party and his or her attorney. The director can (1) adopt the decision in its entirety; (2) reduce or otherwise mitigate the proposed discipline and adopt the balance of the proposed decision; (3) make technical or other minor changes and adopt the decision; (4) reject the proposed decision and refer the matter back to the administrative law judge to take additional evidence; or (5) reject the proposed decision and decide the case upon the record.

The director has 100 days from receipt of the proposed decision to make a final decision. If the director fails to make a decision within the 100 days, the proposed decision shall be deemed adopted by the EMS Authority. The final decision by the director becomes a public record immediately and is served on the respondent and his or her attorney. Generally, the final decision becomes effective 30 days after the final decision is delivered or mailed to the respondent.

### **Default Decision**

Occasionally, after issuing an Accusation, a notice of defense requesting a hearing is not returned by the respondent to either the deputy attorney general or the EMS Authority. According to the Administrative Procedure Act, the director can then issue a decision and order that is binding on the respondent.

### **Licensure Denial**

When the EMS Authority denies an initial application for a paramedic license, the applicant can appeal the decision through the Administrative Procedure Act by submitting a written request to the EMS Authority. A Statement of Issues is prepared and served on the respondent. The Statement of Issues is treated procedurally the same as an Accusation. However, the respondent has the burden of proof to demonstrate that he or she has been rehabilitated.

### **Respondent's Rights**

The respondent is entitled to representation of his/her choice throughout the investigation and any subsequent prosecution. Any such representation is at the respondent's own expense.

The respondent may request “discovery” prior to the hearing and within 30 days after service by the EMS Authority of the Accusation, pursuant to Government Code Section 11507.6.

The respondent is encouraged to familiarize himself/herself with the administrative process and ask questions of the case investigator, the chief investigator, or the deputy attorney general as to his or her procedural rights.

The respondent may access the statutes and regulations governing the conduct of paramedics at the EMS Authority’s web site at “[www.emsa.ca.gov](http://www.emsa.ca.gov)”. Information concerning the Administrative Procedure Act can be obtained at the web site of the Office of Administrative Hearings at “[www.oah.dgs.ca.gov](http://www.oah.dgs.ca.gov)”.